

REMARKS

The Applicant's counsel wishes to thank the Examiner for the time spent reviewing the application and preparing the First Office Action. In the First Office Action, claims 1-5 and 8-18 were rejected and claims 6-7 were objected to. By this paper, independent claims 1, 12, and 17 have been amended and claims 5-6 have been cancelled. New dependent claims 19-20 have been added. Also, dependent claims 4, 7, and 18 have been amended herein. Applicant submits that the claim amendments and newly added claims do not add new matter and entry thereof is respectfully requested. As a result, claims 1-4 and 7-20 are pending and should be in condition for allowance. Reconsideration of the above-identified claims is now respectfully requested.

Summary of Applicant's Invention

Applicant's invention is highly advantageous to the furniture art. In particular, shrinking the chair as disclosed in the application provides tremendous benefits with regards to shipping. For instance, as indicated in the specification

...when the volume of the chair 14 is diminished, the weight of the chair also decreases, thus, reducing packaging and shipping costs of the chair. Furthermore, as the size of chair 14 decreases, chair 14 increases in firmness which facilitates carrying and stacking of chairs.

See ¶ 0042, ll. 7-10.

In addition, the use of an air-permeable storage container, such as a fabric or duffle bag, provides many advantages:

One advantage of employing an air-permeable bag 44 such as a fabric bag (e.g. a duffle bag) is that the bag will let some air in, but only expand to a certain size, thereby maintaining the overall assembly in a convenient size for storage and shipping.

See ¶ 0056, ll. 4-7. Also, the cylindrical shaped bag such as a duffle bag is "convenient for carrying, storing and/or shipping chair 14" (see ¶ 0057, line 9) and "is much easier to carry than a large chair, or even a boxed structure" (see ¶ 0057, line 12).

When the storage container is a durable, flaccid, fabric bag, the bag can withstand the expansion pressures of the chair so that it is not necessary to seal the vacuum chamber (see ¶ 0068, ll. 1-3). Not sealing the vacuum chamber provides benefits. Leaving the vacuum chamber open enables the chair to expand to its original volume in about a day after it is removed from the storage container. In contrast, when the vacuum chamber is sealed, it can take up to one week for the chair to expand to its original size. Hence, leaving the vacuum chamber open during storing and/or transportation significantly increases the eventual rate of expansion of the chair, allowing the user to enjoy the uses of the chair more quickly after removing the storage container and vacuum chamber. See ¶ 0068. Further, the durable, flaccid, fabric bag prevents the chair from expanding unexpectedly and causing a potentially hazardous situation when a number of chairs are stacked (see ¶ 0069, ll. 3-5).

In addition, for the Examiner's reference, examples of products embodying the Applicant's invention can be viewed at www.lovesac.com.

Rejections Under 35 U.S.C. § 102

In the First Office Action, claims 1-2, 4-5, 8-12, and 14-18 were rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 3,968,620 to Keltner (the "Keltner patent").

The Keltner patent relates to a method of compressing a foam article in connection with gifts. The article, such as a pillow, is compressed by placing it in a flexible plastic bag and thereafter removing excess air therefrom. Once sufficiently compressed, the article and

associated bag can be placed and sealed in a box or a canister (see col. 1, line 56-col. 2, line 61). Alternatively, a decorative plastic bag may be used as the "complete packaging" (see col. 2, ll. 57-58).

The Keltner patent does not anticipate or obviate the limitations recited with respect to independent claims 12 or 17, as amended. In particular, the Keltner patent fails to disclose the step of placing a furniture assembly in a storage container, wherein the storage container comprises an air permeable material such as a fabric or some other breathable material. Further, Keltner does not teach or suggest the advantages of an air permeable container, which enables convenient shrinking and shipping, as discussed above. Instead, Keltner relates to a method of packaging "an unusual gift item" (*see* Abstract) such as a compressed pillow with "gift messages" or "personalized words" on one side, which when opened, "pop[s] out of the box to the surprise of the recipient." *See* Abstract & col. 4, ll. 10-17. Thus, the Keltner patent does not anticipate or obviate the limitations recited with respect to claims 12 and 17 or their related dependent claims.

With respect to claim 1, on page 5 of the First Office Action Examiner stated that claim 6 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. As such, independent claim 1 has been amended to include the limitations of claim 6 and any intervening claims.

Rejections Under 35 U.S.C. § 112

In the First Office Action, claims 5 and 12-16 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. By this paper claims 5 and 12 have been amended to address Examiner's concerns.

In conclusion, it is respectfully submitted that pending claims 1-4 and 7-20 are in condition for allowance. As such, reconsideration and allowance of the above-identified claims is now respectfully requested.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 21 day of September, 2004.

Respectfully submitted,



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